

APPELLATE TAX BOARD

The Executive Office for Administration and Finance
Commonwealth of Massachusetts



Performance Report
Fiscal Year 2013

Thomas W. Hammond, Jr.
Chairman

MESSAGE FROM THE CHAIRMAN

The Appellate Tax Board (“ATB”) is one of the most important but least understood of all state agencies. It has exclusive, original jurisdiction over billions of dollars of taxes in appeals of every type of state and local property tax assessment. The ATB has the subject matter expertise to decide complex tax matters as well as real estate valuation cases, personal property tax appeals and even water bill cases. The ATB has the unique role of processing thousands of cases each year in an efficient and timely manner. The ATB’s decisions and written opinions are meticulously researched and edited to insure that they are clearly written, understandable, and consistent with the governing statutory provisions. The staff of the ATB is mindful of its tremendous responsibilities to the taxpayers and taxing authorities and is dedicated to providing the mechanisms to resolve appeals in the most expeditious manner possible.

As Chairman, I work with my dedicated and experienced staff every day to insure that the ATB provides a tax appeal process that is fair, consistent and conforms to the statutory provisions that govern taxation in Massachusetts. The ATB remains committed to insuring that its mission is met with integrity and fundamental fairness.

- **Thomas W. Hammond, Jr.**
Chairman, Appellate Tax Board

As an organization affiliated with the Executive Office of Administration and Finance, the Appellate Tax Board’s goals reflect and bolster the commitments of A&F to deliver Better Finance, Better Health Care, Better Performance and Better Government.

This report was developed pursuant to Executive Order 540, Governor Patrick’s directive to embed strategic planning and performance management across state government. The Appellate Tax Board’s FY13 Performance Report describes progress achieved against the goals set out in its 2013-2015 Strategic Plan.

ACHIEVEMENTS AND CHALLENGES

OVERVIEW

The Appellate Tax Board is a quasi-judicial agency in the executive branch but with reporting requirements to the General Court. The ATB is devoted to hearing and deciding cases on appeal from any state or local taxing authority. The ATB was established by the Legislature in 1929 to relieve the Superior Court of the large volume of tax appeals and to provide taxpayers with a less expensive and more expedient means of appeal. The ATB handles appeals related to virtually all state taxes and excises as well as appeals of local property taxes from all 351 cities and towns in the Commonwealth.

Over ninety percent of the petitions filed at the ATB are appeals of local property taxes. The remaining cases are appeals by taxpayers relating to all state taxes, including: income tax, sales and use tax, corporate excise, bank

excise, estate tax and others. The ATB also has jurisdiction to hear appeals by cities and towns of valuations set by the Department of Revenue that are used in computing local aid and state assessments.

ACHIEVEMENTS

As a result of the ATB's aggressive management of its pending cases, there has been a dramatic increase in the number of decided and settled cases, with a corresponding reduction in inventory.

In addition to scheduling more pre-trial and status conferences to facilitate settlements, the ATB has also issued record numbers of decisions and written opinions over the last several fiscal years, while maintaining its exemplary record of affirmance in over 90 percent of the decisions appealed to the Massachusetts appellate courts.

MISSION

The ATB is committed to resolving tax appeals in an expeditious fashion and maintaining an appeal process which is fair, understandable and accessible to all litigants, including pro se taxpayers. By efficiently resolving tax disputes, the ATB ensures fairness to taxpayers, predictability in the enforcement of tax laws, and uninterrupted cash flows to the state and municipalities.

VISION

Through increased mediation and public outreach, the ATB intends to build on its efficiencies, by increasing voluntary settlement of appeals, thereby leveraging more of its resources to the decision-making process.

The following are examples of specific achievements in the improvement of the ATB's operations.

- The ATB continually updates its website with its latest written opinions, recent ATB decision of broad public interest, the ATB's rules, printable copies of its forms, a guide for real estate tax appeals, and other information helpful to taxpayers and taxing authorities.
- The ATB electronically transmits copies of its *Findings of Fact and Reports* to anyone requesting placement on the ATB's e-mail distribution list, including tax practitioners, municipal officials, the Department of Revenue, legal publishers, and other interested parties.
- As a convenience to taxpayers and local boards of assessors located in areas distant from Boston and when funding permits, the ATB conducts property tax hearings in

such cities and towns as Pittsfield, Springfield, Milford, Lawrence, Northampton, Falmouth and others as needed.




- The ATB aggressively schedules appeals to expedite resolution, with the result that many single family residential property cases are heard and decided within six months of the date the taxpayer first files an appeal with the ATB.
- In more complex cases, which may require discovery, the retention of expert witnesses by the parties, and other pre-trial procedures, the ATB actively facilitates the settlement, mediation, and efficient litigation of the appeals through pre-trial conferences and discovery orders. In those cases that are tried, the ATB issues decisions within three to six months of hearing in most cases, unless the trial record is so



extensive that more time is necessary.







CHALLENGES

Because the workload of the ATB is counter-cyclical, when the state experiences an economic downturn, the number of case filings and hearings at the ATB increases. These downturns lead to increased case filings, less inclination on the part of parties to settle, and an increase in the number of appeals going to trial. While the ATB has been able to navigate the most recent downturn, reductions in staff and space resulting from budget cuts have challenged the ATB's ability to handle increased workloads on an ongoing basis. Nevertheless, despite these factors, the ATB has achieved a high level of productivity in disposing tax appeals and, looking forward, intends to build on these efforts to achieve an even higher level of efficiency.

PERFORMANCE DASHBOARD

STATUS LEGEND						
On Target (>= Target)		Close-to-Target (>= 80-99%)		Off Target (<80% of Target)		Not Applicable (N/A)
Note: Descriptions for performance measures can be found on page 7						

GOAL	MEASURE	FY13	FY12	TREND	TARGET	STATUS	COMMENTS
PRE-TRIAL SETTLEMENTS: Increase the number of appeals settled prior to a trial	# of appeals settled prior to trial	5,532 36% of total	7,898 40% of total	Stable	Number of appeals settled/withdrawn is at least 25% of pending appeal inventory		The decrease in the number of settlements may reflect litigation posture of taxpayers and taxing authorities due to economy and underscores the need for full-time case management administrator to coordinate mediation efforts.
DISSEMINATION OF INFORMATION: Increase the amount and reach of information concerning the abatement process and Board procedures	# of hits on ATB's procedures webpage	1, 472	1,034	Improving	Increase in use over prior year		

GOAL	MEASURE	FY13	FY12	TREND	TARGET	STATUS	COMMENTS
CASE MANAGEMENT EFFICIENCY: Improve case management capability to reduce inventory	# of appeals mediated before trial	36	4	Improving	Mediate at least 2 appeals per month		Data reflects results from recent mediation initiative. Municipalities are currently evaluating mediation options.
APPEALS: Process all appeals in an efficient and timely manner	# of appeals pending at end of fiscal year	9,690	11,502	Improving	Maintain inventory below 15,000 appeals		The pending appeal inventory is the lowest in 10 years
	# of appeals closed by end of fiscal year	5,532	7,898	Improving	Close at least 4,000 appeals per year		
QUALITY OF ADJUDICATIONS: Ensure that staff exemplify the highest levels of impartiality, integrity and expertise in the substantive areas of the law applicable to our adjudications	% of ATB appeals determinations affirmed	100%	80%	Improving	Maintain affirmance rate of at least 80%		
	% of ATB appeals determinations reversed	0%	20%	Improving	Maintain reversal rate of 20% or less		
OUTREACH: Enhance outreach to decrease case filings	# of appeals opened	4,368	4,749	Improving	Reduce from previous year		

NOTEWORTHY CHANGES, ADDITIONS OR DELETIONS

GOAL	MEASURE	CHANGE, ADDITION OR DELETION EXPLANATION
DISSEMINATION OF INFORMATION: Increase the amount and reach of information concerning the abatement process and Board procedures	# of hits on the ATB's abatement process webpage	Deletion: The ATB is not currently tracking this information but rather the # of hits on its procedures page.
TRIAL EFFICIENCY: Increase the narrowing of contested issues of law and fact to be litigated	# of contested issues	Deletion: The ATB's docket tracking software is not currently capable of tracking this measure. It is important to note that the ATB aggressively works to narrow contested issues through pre-trial conferences and mediation.
SCHEDULING EFFICIENCY: Increase scheduling and hearing of property appeals to avoid hearings of multiple fiscal years concerning the same property	# of property appeals on same property spanning multiple years	Deletion: The ATB's docket tracking software is not currently capable of tracking this measure. It is important to note that the ATB's assistant clerks, in consultation with the Chairman, routinely monitor the scheduling of hearings.
CUSTOMER SATISFACTION: Increase service quality and customer satisfaction	% of survey respondents reporting a positive customer service experience	Deletion: Because it is inappropriate for a quasi-judicial tribunal to survey litigants on an <i>ex parte</i> basis, the ATB has decided not to pursue the use of a customer service survey. This measure has been deleted accordingly.

MEASURE DESCRIPTIONS

GOAL	MEASURE	DESCRIPTION	SOURCE
PRE-TRIAL SETTLEMENTS: Increase the number of appeals settled prior to a trial	# of appeals settled prior to trial	This measure tracks the number of appeals settled by the Appellate Tax Board prior to trial. Settling issues outside of court saves time, money and other resources.	Case tracking software
DISSEMINATION OF INFORMATION: Increase the amount and reach of information concerning the abatement process and Board procedures	# of hits on ATB's procedures webpage	This measure tracks the number of hits on the procedures page: http://www.mass.gov/anf/hearings-and-appeals/oversight-agencies/atb/rules-of-practice-and-procedure-of-the.html .	Web Analytics
CASE MANAGEMENT EFFICIENCY: Improve case management capability to reduce inventory	# of appeals mediated before trial	This measure tracks the number of cases successfully mediated and settled before trial. Successful mediation saves time and ultimately costs by settling issues outside of trial.	Case tracking software
APPEALS: Process all appeals in an efficient and timely manner	# of appeals pending at end of fiscal year	This measure tracks the number of appeals pending at the end of the fiscal year.	Case tracking software
	# of appeals closed by end of fiscal year	This measure tracks the number of appeals closed by the end of the fiscal year.	Case tracking software
QUALITY OF ADJUDICATIONS: Ensure that staff exemplify the highest levels of impartiality, integrity and expertise in the substantive areas of the law applicable to our adjudications	% of ATB appeals determinations affirmed	This measure tracks the percent of ATB appeals determinations that are affirmed.	Appellate Process
	% of ATB appeals determinations reversed	This measure tracks the percent of ATB appeals determinations that are reversed.	Appellate Process
OUTREACH: Enhance outreach to decrease case filings	# of appeals opened	This measure tracks ATB's success at educating the public on the issues and evidence germane to an abatement proceeding. Fewer appeals opened results from better informal resolution of tax disputes. Informal resolution of disputes saves the parties the time and expense of litigation.	Case tracking software